

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

SQUIRES BROTHERS, INC.,

Plaintiff,

v.

CHEMINOVA, INC. and SOUTHERN STATES
COOPERATIVE, INC.,

Defendants.

Civil Action No. 4:12-cv-03341-RBH

**AMENDED CONFERENCE AND
SCHEDULING ORDER**

Pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules of this Court, the schedule established for this case is hereby amended as set forth below. Discovery may begin upon receipt of this order.

1. A conference of the parties pursuant to Fed. R. Civ. P. 26(f) shall be held no later than **January 7, 2013**. At conference the parties shall confer concerning:

- (a) all matters set forth in Fed. R. Civ. P. 26(f);
- (b) whether the schedule set forth in this order is appropriate and, if not, what modifications are necessary;²
- (c) whether a **confidentiality order** is necessary and appropriate;³
- (d) whether documents may be filed which require protection such as **filing under seal** pursuant to Local Civil Rule 5.03.

2. No later than **January 29, 2013** the required initial disclosures under Fed. R. Civ. P. 26(a)(1) shall be made.

3. No later than **January 22, 2013** the parties shall file a Rule 26(f) Report in the form attached to this order. Parties are hereby notified that Local Civil Rule 26.03 lists additional queries to be answered in the Rule 26(f) Report.

4. Motions to join other parties and amend the pleadings shall be filed no later than **March 18, 2013**.

5. Pre-discovery Mediation shall be held on or before **March 22, 2013**. Counsel for the parties will exchange limited documents in good faith and will convene a mediation in compliance with Local Rule 16.

6. Plaintiff(s) shall file and serve a document identifying by full name, address, and telephone number each person whom Plaintiff(s) expects to call as an expert at trial and certifying that a written report prepared and signed by the expert pursuant to Fed. R. Civ.P. 26(a)(2)(B) or, where allowed, a report prepared by counsel* has been disclosed to other parties by **July 17, 2013**.

***NOTE: Amendments effective December 1, 2010, impose new disclosure requirements for certain expert witnesses.**

7. Defendant(s) shall file and serve a document identifying by full name, address, and telephone number each person whom Defendant(s) expects to call as an expert at trial and certifying that a written report prepared and signed by the expert pursuant to Fed. R. Civ.P.

26(a)(2)(B) or, where allowed, a report prepared by counsel* has been disclosed to other parties by **August 16, 2013**. ***NOTE: Amendments effective December 1, 2010, impose new disclosure requirements for certain expert witnesses.**

8. Counsel shall file and serve affidavits of records custodian witnesses proposed to be presented by affidavit at trial no later than **May 17, 2013**. Objections to such affidavits must be made within fourteen (14) days after the service of the disclosure. *See* Fed.R.Evid. 803(6), 902(11), or 902(12) and Local Civil Rule 16.02(D)(3).

9. Discovery shall be completed no later than **October 16, 2013**. All discovery requests shall be served in time for the responses thereto to be served by this date. De bene esse depositions must be completed by discovery deadline. **No motions relating to discovery shall be**

filed until counsel have consulted and attempted to resolve the matter as required by Local Civil Rule 7.02, and have had a telephone conference with Judge Harwell in an attempt to resolve the matter informally.

10. All dispositive motions, Daubert motions, and all other motions, except those to complete discovery, those nonwaivable motions made pursuant to Fed. R. Civ. P. 12, and those relating to the admissibility of evidence at trial (other than Daubert motions), shall be filed on or before **October 31, 2013**. *See* below ¶ 12 for motions in limine deadline.

11. Mediation, pursuant to Local Civil Rules 16.04 – 16.12, shall be completed in this case on or before **December 31, 2013**. *See* Standing Order to Conduct Mediation, which sets forth mediation requirements and is found on the court's website under Judge Harwell's forms (<http://www.scd.uscourts.gov>). At least **thirty (30) days prior to this mediation deadline**, counsel for each party shall file and serve a statement certifying that counsel has: (1) provided the party with a copy of Standing Order to Conduct Mediation; (2) discussed the availability of mediation with the party; and (3) discussed the advisability and timing of mediation with opposing counsel.

12. No later than **January 15, 2014** the parties shall file and exchange Fed. R. Civ. P. 26(a)(3) pretrial disclosures. Within fourteen (14) days thereafter, a party shall file and exchange Fed. R. Civ. P. 26(a)(3) objections, any objections to use of a deposition designated by another party and any deposition counter-designations under Fed. R. Civ.P. 32(a)(6).

13. Motions in limine must be filed at least three weeks prior to **February 2, 2014**.

14. Parties shall furnish the Court pretrial briefs seven (7) days prior to the date set for jury selection (Local Civil Rule 26.05). Attorneys shall meet at least seven (7) days prior to the date set for submission of pretrial briefs for the purpose of exchanging and marking all exhibits. *See* Local Civil Rule 26.07.(Attorneys are reminded to view the Court's instructions online

regarding verdict forms, jury instructions, deposition designations, etc. that may be applicable to their case.)

15. This case is subject to being called for jury selection and/or trial on or after **February 2, 2014.**

The parties' attention is specifically directed to Local Rule 5.03 regarding the filing of confidential material. The parties' attention is also directed to the Court's website regarding instructions or other orders that may be applicable to your case.

s/R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Date: January 23, 2013
Florence, South Carolina

WE CONSENT:

NEXSEN PRUET, LLC

/s/ Molly Hughes Cherry
Molly Hughes Cherry, Fed. Bar No. 7067
205 King Street, Ste 400
Charleston, South Carolina 29401
Tel.: (843) 720-1724
Fax: (843) 414-8209

Of counsel:
Christopher G. Kelly
Robert J. Burns
HOLLAND & KNIGHT LLP
31 W. 52nd Street
New York, New York 10019
Tel: (212) 513-3200
Fax: (212) 385-9010
Attorneys for Defendant Cheminova, Inc.

ROGERS TOWNSEND & THOMAS, PC

/s/ Steven T. Moon
T. McRoy Shelley, III, Fed. Bar No. 6681
Steven T. Moon, Fed. Bar No. 3964
P.O. Box 100200
Columbia, South Carolina 29202
Tel.: (803) 771-7900
Fax: (803) 343-7017
Attorneys for Plaintiffs

GALLIVAN, WHITE & BOYD, P.A.

/s/ Curtis L. Ott
Alfred Johnston Cox, Fed. Bar No. 6534
Curtis L. Ott, Fed. Bar No. 5939
James E. Brogdon, III, Fed. Bar No. 10872
1201 Main Street, Suite 1200
Columbia, South Carolina 29201
Tel.: (803) 779-1833
Fax: (803) 779-1767
Attorneys for Defendant
Southern States Cooperative, Inc.